

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

LBRY, INC.,

Defendant.

---

Civil Action No. 21-cv-00260-PB

**JOINT MOTION TO RESCHEDULE TRIAL**

Plaintiff Securities and Exchange Commission and defendant LBRY, Inc. jointly move to modify the current case scheduling order (ECF No. 52) to reschedule trial from September 7, 2022 to October 4, 2022. The Commission previously requested an extension of the discovery deadlines and trial date by one month (ECF No. 47), and at that time the Court extended the discovery deadlines but retained the current trial date. (ECF Nos. 52, 53). The parties now respectfully request that the Court revisit the schedule, and jointly request that the Court postpone the commencement of trial. In support of their Motion, the parties state as follows:

The parties recently completed extensive briefing in cross motions for summary judgment. (ECF Nos. 55, 61, 70, 72, 74, 75).

Motions to challenge expert testimony are currently due on July 18, 2022. On or before that date, the Commission will be filing a motion to exclude the report and testimony of LBRY's expert under *Daubert* and Fed. R. Evid. 702.

The Court has set a hearing for the pending summary judgment motions and the pending Motion to Strike or Preclude Use of the Amended Report of LBRY's Expert on July 20, 2022.

The issues currently under consideration by the Court (or that soon will be) may significantly alter the questions that would be presented at trial, should the Court determine that a trial is necessary.

The pretrial deadlines that were set on September 8, 2021 are currently still in effect: The final pretrial conference is set for August 24, 2022; Pretrial Statements are due on August 2, 2022; and Objections are due on August 16, 2022. Pursuant to Local Rule 16.2, the contents of the Final Pretrial Statements and the Documents to Accompany Final Pretrial Statements must be filed simultaneously, and include all key pre-trial filings.

With these pre-trial deadlines approaching, the parties must begin drafting materials without the benefit of the Court's rulings on the pending motions. As a matter of efficiency, and to allow the Commission and the Defendant to avoid unnecessarily spending time and incurring costs preparing materials that may become moot or irrelevant, the parties jointly request that the trial date be rescheduled to October 4, 2022, and that the pretrial deadlines be adjusted accordingly.

The parties have endeavored to limit this postponement to as short a time as possible, in light of the parties understanding of the procedures for empanelment in the District of New Hampshire (and the September religious holidays). This is the parties' second request for an extension of the schedule. Counsel for defendant will separately file a certification pursuant to Local Rule 7.2 in connection with this joint motion.

Dated: July 12, 2022

Respectfully submitted,

**SECURITIES AND EXCHANGE  
COMMISSION**

By its Attorneys,

/s/ Amy Harman Burkart

Amy Harman Burkart (Mass. Bar No. 651828)

Marc Jones (Mass Bar No. 645910)

Peter Bryan Moores (Mass Bar No. 658033)

Boston Regional Office

33 Arch Street

Boston, MA 02110

(617) 573-8947 (Jones direct)

(617) 573-5905 (Burkart direct)

burkarta@sec.gov

**LBRY, INC.**

By its Attorneys,

/s/ William E. Christie

William E. Christie

NH Bar #11255

Shaheen & Gordon, P.A.

107 Storrs Street

P.O. Box 2703

Concord, NH 03302

(603) 819-4231

wchristie@shaheengordon.com

Keith W. Miller (pro hac vice)

KeithMiller@perkinscoie.com

Rachel Mechanic (pro hac vice)

RMechanic@perkinscoie.com

Emily Drinkwater (pro hac vice)

EDrinkwater@perkinscoie.com

Perkins Coie LLP

1155 Avenue of the Americas, 22nd Floor  
New York, New York 10036-2711  
(212) 262-6900

**CERTIFICATE OF SERVICE**

I hereby certify that, on July 12, 2022, I caused true and correct copies of the foregoing to be served on counsel of record for all parties that have appeared to date through the Court's CM/ECF system.

/s/ Amy Harman Burkart  
Amy Harman Burkart